



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,169	10/15/2003	John Edward Ramsey	HEND-AO	6799

24120 7590 07/25/2006

DAVID P DURESKA
BUCKINGHAM DOOLITTLE & BURROUGHS, LLP
4518 FULTON DRIVE, NW
P O BOX 35548
CANTON, OH 44735-5548

EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
----------	--------------

3616

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/686,169		RAMSEY, JOHN EDWARD	
	Examiner		Art Unit	
	David Dunn		3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-16 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☐ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) ☐ Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/26/06, 5/30/06</u> | 6) ☒ Other: <u>Reinke prior art</u> |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 26, 2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "the frame" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3616

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Fabris et al. (US 6,425,593).

Fabris et al. discloses a subframe for a vehicle trailer including: a pair of spaced-apart, parallel, elongated and longitudinally extending main members (11'; see Figure 3); a pair of hangers (24; see Figures 3, 4, and 6), each one of said hangers being attached to and depending from a respective one of said main members (see Figure 4); at least one transverse cross member (single elements 12A' and 12B'; see Figure 3, i.e., the cross members positioned above air cushions 33' ONLY); a vertically disposed brace structure (the **leftmost** 12A' cross member ONLY; see Figure 3).

Regarding claim 2, the second of the double members 12A' (i.e., the second 12A' cross member in Figure 3) is horizontally disposed as it extends horizontally.

6. Claims 1, 2, 4, 13, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Reinke Mfg. Platform Trailer Suspension Bracing (filed in IDS).

Reinke discloses a subframe comprising the main members, hangers, cross member, and vertically disposed brace structure (see attached Figure).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 4, 6-8, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fabris et al. in view of Philipps (6,712,393).

Fabris et al. is discussed above and fails to show a reinforcement bracket attached between the main members and the transverse cross members.

Philipps teaches a vehicle frame with main members (14) and transverse cross members (10); in which a reinforcement bracket (68; see Figure 7) is attached to the main members and the end of the transverse cross member. Also, Philipps shows the cross-member having an X shape with vertically disposed cross-brace structures (see Figure 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fabris et al. with the teachings of Philipps to include the reinforcement bracket in order to further strengthen the connection to the frame and to provide the vertically disposed cross brace with an X-shape in order to provide a light weight structure.

9. Claims 3, 4, 6-8, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinke in view of Philipps (6,712,393).

Reinke is discussed above and fails to show a reinforcement bracket attached between the main members and the transverse cross members.

Philipps teaches a vehicle frame with main members (14) and transverse cross members (10); in which a reinforcement bracket (68; see Figure 7) is attached to the main members and the end of the transverse cross member. Also, Philipps shows the cross-member having an X shape with vertically disposed cross-brace structures (see Figure 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Reinke with the teachings of Philipps to include the reinforcement bracket

in order to further strengthen the connection to the frame and to provide the vertically disposed cross brace with an X-shape in order to provide a light weight structure.

10. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fabris et al. in view of Pierce et al. (5,720,489).

Fabris et al. is discussed above but does not show the frame being mounted on the bottom of a trailer for movably mounting.

Pierce et al. shows a subframe structure for a trailer (see column 4, lines 22-30; see also Figures 4-6) including means for positioning the subframe (pin 49; Figure 7). Pierce et al. shows an axle/suspension system (see Figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fabris et al. with the teachings of Pierce et al. to include this structure on trailer subframe slider so that the position of the wheels could easily be changed.

11. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinke in view of Pierce et al. (5,720,489).

Reinke is discussed above but does not show the frame being mounted on the bottom of a trailer for movably mounting.

Pierce et al. shows a subframe structure for a trailer (see column 4, lines 22-30; see also Figures 4-6) including means for positioning the subframe (pin 49; Figure 7). Pierce et al. shows an axle/suspension system (see Figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Reinke with the teachings of Pierce et al. to include this structure on trailer subframe slider so that the position of the wheels could easily be changed.

Allowable Subject Matter

12. Claim 17 is allowed.
13. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments filed May 26, 2006 have been fully considered but they are not persuasive.

On pages 8 and 9, Applicant argues that the “Examiner has indicated that the cross member 12A’ of the Fabris ‘593 is both a transverse cross member and a vertically disposed brace structure” and that it is “improper for the Examiner to cite one element ... and to then argue that element anticipates both a transverse cross member and a vertically disposed brace structure when it clearly does not.” Similarly on page 10, Applicant argues that the Examiner also uses 12A’ as a “horizontally disposed brace structure” in regards to claim 2. In response, it is noted that the Examiner never used the same element to anticipate more than one feature. As the examiner clearly noted in the rejection above, there are three (3) separate members, which Fabris labeled all as 12A’, used to anticipated three claimed limitations respectively. In Figure 3 of the reference, there are six (6) cross members, three are labeled 12A’, and another three are labeled 12B’. The examiner has tried to more clearly explain the difference in the each member relied upon (e.g. “the **leftmost** 12A’ cross member ONLY”).

Additionally, Applicant argues on page 10 and 11 that Fabris does not show “attachment of a vertically disposed brace structure to a pair of hangers.” In response, it is submitted that the leftmost 12A’ cross member shown in Figure 3 is attached to the hanger 24; see column 6, lines 56-60: “U-shaped base 25 welds not only to its respective main member... but to a respective pair of cross members 12A, B’ via wings 42”. The cross member 12A’ is considered vertically disposed as of its vertical arrangement (i.e., its vertical height).

On pages 11-14, Applicant argues the finality of the prior office action. Applicant argues that the finality “was not necessitated by Applicant’s submission of an IDS or amendment of the claims.” Applicant notes that claim 1 was amended “to incorporate an element from former dependent Claim 2, and to clarify Claim 1.” In response, it is noted that claim 1 was clearly amended and that the amendment necessitated the new grounds of rejection. It is noted that applicant amended section c) of claim 1 to recite a “vertically disposed brace structure”, not a “horizontally disposed brace structure”. Applicant also switched claim 2 to recite a “horizontally disposed brace structure”. Finally, claim 2 was not simply inserted into claim 1, only a portion of claim 2 was moved which changed the scope of the claim.

Applicant continues arguing that “prosecution of this application has passed the two-and-a-half year mark” (emphasis original). It is noted that the examiner has responded to all amendments in a timely manner and has not delayed prosecution.

Applicant also argues that the examiner has “violated this ‘switching’ principle” by switching from one reference to another. The examiner’s “switching” of rejections was necessitated by applicant’s amendment. The reason the reference was “switched” was that claim 1 now requires only a vertical brace, not a horizontal brace as before; claim 2 required both

Art Unit: 3616

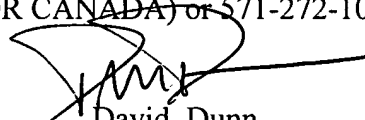
vertical and horizontal braces. Claim 1 as now written does not require both braces (i.e., applicant has removed a limitation from claim 1).

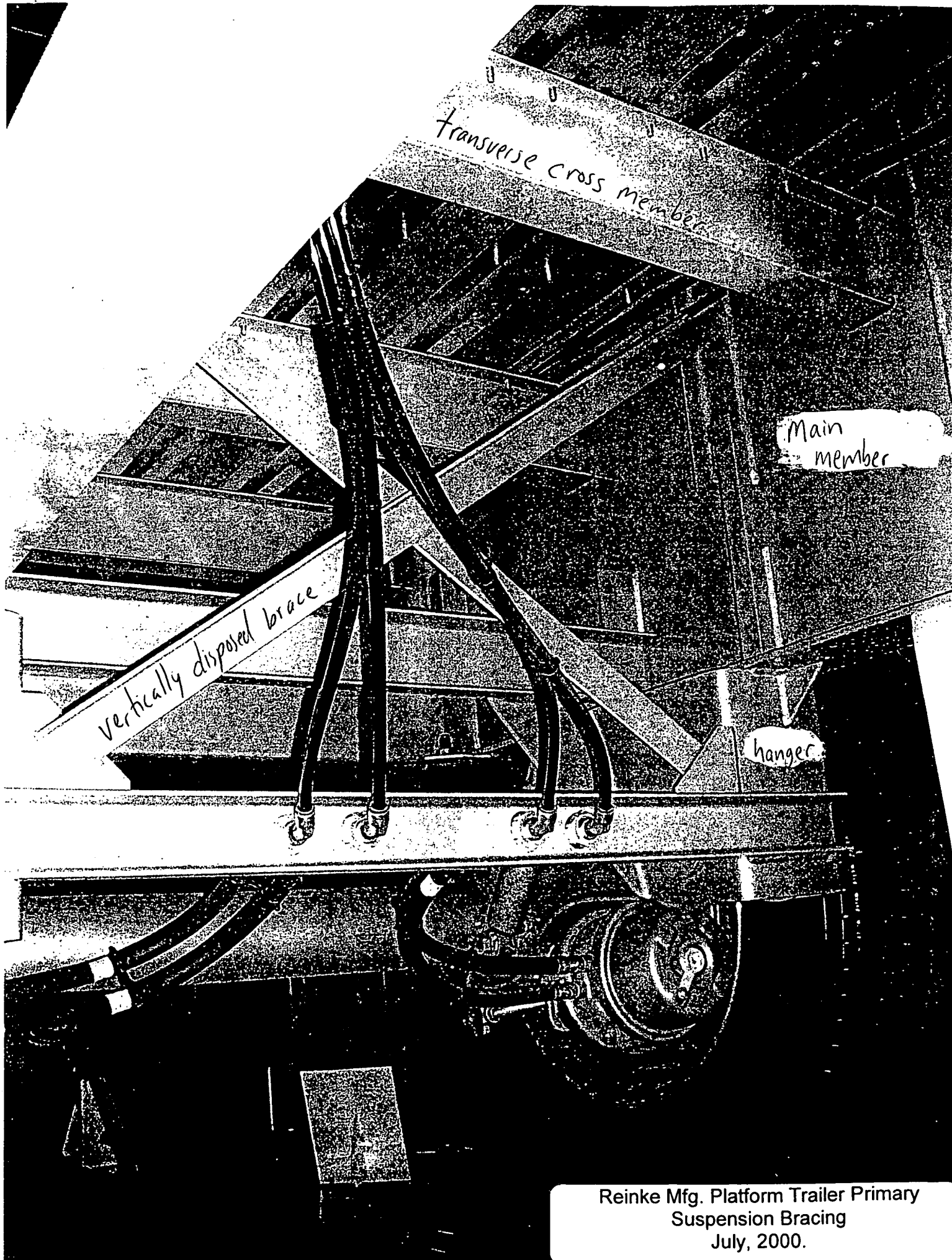
Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Dunn
Primary Examiner
Art Unit 3616



Reinke Mfg. Platform Trailer Primary
Suspension Bracing
July, 2000.